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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/856,022	05/16/2001	Guy Barre	TS 5549 US	2253

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EXAMINER	
GRIFFIN, WALTER DEAN	

ART UNIT	PAPER NUMBER
1764	

DATE MAILED: 09/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/856,022	BARRE ET AL.	
	Examiner	Art Unit	
	Walter D. Griffin	1764	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *04 August 2004*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,3-12 and 14-26* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,3-12 and 14-26* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

The rejections as described in the paper mailed on May 11, 2004 have been withdrawn in view of the amendment filed on August 4, 2004. The WO 98/01515 reference does not disclose a process in which the feed has not been subjected to a hydrotreating step prior to dewaxing as claimed.

New rejections follow.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any

evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1, 3-11, and 14-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gorring et al. (US 3,894,938) in view of WO 98/01515 to Moureaux.

The Gorring reference discloses a dewaxing process. The process comprises contacting a sulfur and nitrogen-containing gas oil boiling in the range of 400°F to 900°F with a catalyst in a catalytic dewaxing zone and then passing the product from the dewaxing zone to a desulfurization and denitrogenation zone to produce final product. The feed contains a total sulfur content of at least 0.1 weight percent (1000 ppm) and a nitrogen content of at least 10 ppm and has not been previously hydrotreated. The dewaxing catalyst comprises a ZSM-5 type of zeolite (i.e., an MFI type of zeolite that necessarily has a constraint index within the claimed range), a hydrogen transfer functional component such as nickel, palladium, or platinum, and a matrix such as silica. See column 2, line 39 through column 3, line 34.

The Gorring reference does not disclose that the feed is obtained by the vacuum distillation of the residue of an atmospheric distillation of a crude petroleum feedstock, does not disclose that the feed is a solvent extracted waxy raffinate, and does not disclose that the ZSM-5 is dealuminated.

The Moureaux reference discloses a dewaxing catalyst that comprises a dealuminated ZSM-5 zeolite, Group VIII metal, and a silica binder. The dealumination of the zeolite can be achieved by methods disclosed in European patent specification 96921992.2 (EP 0832171 B1). These methods include treatment of zeolite and binder extrudates with an aqueous solution of a fluorosilicate salt. See page 9, lines 30-35; page 10, lines 1-3; page 11, lines 9-18 and 30-35;

page 14, lines 4-31; page 15, lines 17-35; page 16, lines 1-5; page 21, lines 20 and 21; and page 22, lines 1-11.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the process of Gorring by utilizing the claimed feeds because such feeds are chemically and physically similar to the feeds disclosed by Gorring and therefore would be expected to be effectively treated in the process of Gorring.

It also would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the process of Gorring by utilizing a dealuminated zeolite catalyst such as that disclosed by Moureaux because such a catalyst is effective for the desired reaction of Gorring.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gorring et al. (US 3,894,938) in view of WO 98/01515 to Moureaux as applied to claim 1 above, and further in view of Ward (US 4,743,354).

None of the previously discussed references discloses the further hydrocracking of the dewaxed products.

The Ward reference discloses the hydrocracking of an effluent from a dewaxing zone. See column 8, lines 28-51.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the teachings of the previously discussed references by hydrocracking the effluent from the dewaxing stage as suggested by Ward because valuable products such as middle distillates will be produced.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The Callera reference discloses a process comprising dewaxing followed by desulfurization.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Walter D. Griffin whose telephone number is (571) 272-1447. The examiner can normally be reached on Monday-Friday 6:30 to 4:00 with alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Caldarola can be reached on (571) 272-1444. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Walter D. Griffin
Primary Examiner
Art Unit 1764

WG
September 16, 2004